

57-1-26. Requests for copies of notice of default and notice of sale -- Mailing by trustee or beneficiary -- Publication of notice of default -- Notice to parties of trust deed.

(1) (a) Any person desiring a copy of any notice of default and of any notice of sale under any trust deed shall file for record a duly acknowledged request for a copy of any notice of default and notice of sale:

(i) in the office of the county recorder of any county in which the trust property or any part of the trust property is situated; and

(ii) at any time:

(A) subsequent to the filing for record of the trust deed; and

(B) prior to the filing for record of a notice of default.

(b) Except as provided in Subsection (3), the request described in Subsection (1)(a) may not be included in any other recorded instrument.

(c) The request described in Subsection (1)(a) shall:

(i) set forth the name and address of the one or more persons requesting copies of the notice of default and the notice of sale; and

(ii) identify the trust deed by stating:

(A) the names of the original parties to the trust deed;

(B) the date of filing for record of the trust deed;

(C) (I) the book and page where the trust deed is recorded; or

(II) the recorder's entry number; and

(D) the legal description of the trust property.

(d) The request described in Subsection (1)(a) shall be in substantially the following form:

REQUEST FOR NOTICE

The undersigned requests that a copy of any notice of default and a copy of notice of sale under the trust deed filed for record _____(month\day\year), and recorded in Book ____, Page ____, Records of ____ County, (or filed for record _____(month\day\year), with recorder's entry number ____, _____ County), Utah, executed by ____ and _____ as trustors, in which ____ is named as beneficiary and ____ as trustee, be mailed to ____ (insert name) ____ at ____ (insert address) _____.

(Insert legal description)

Signature _____

(Certificate of Acknowledgement)

(e) If a request for a copy of a notice of default and notice of sale is filed for record under this section, the recorder shall index the request in:

(i) the mortgagor's index;

(ii) mortgagee's index; and

(iii) abstract record.

(f) Except as provided in Subsection (3), the trustee under any deed of trust is not required to send notice of default or notice of sale to any person not filing a request for notice as described in this Subsection (1).

(2) (a) Not later than 10 days after recordation of a notice of default, the trustee or beneficiary shall mail a signed copy of the notice of default:

(i) by certified or registered mail, with postage prepaid;

- (ii) with the recording date shown;
- (iii) addressed to each person whose name and address are set forth in a request that has been recorded prior to the filing for record of the notice of default; and
- (iv) directed to the address designated in the request.

(b) At least 20 days before the date of sale, the trustee shall mail a signed copy of the notice of the time and place of sale:

- (i) by certified or registered mail, return receipt requested, with postage prepaid;
- (ii) addressed to each person whose name and address are set forth in a request that has been recorded prior to the filing for record of the notice of default; and
- (iii) directed to the address designated in the request.

(3) (a) Any trust deed may contain a request that a copy of any notice of default and a copy of any notice of sale under the trust deed be mailed to any person who is a party to the trust deed at the address of the person set forth in the trust deed.

(b) A copy of any notice of default and of any notice of sale shall be mailed to any person requesting the notice who is a party to the trust deed at the same time and in the same manner required in Subsection (2) as though a separate request had been filed by each person as provided in Subsection (1) except that a trustee shall include with a signed copy of a notice of default and the signed copy of a notice of sale the following information current as of the time the notice of default and the notice of sale is provided:

- (i) the name of the trustee;
- (ii) the mailing address of the trustee;
- (iii) if the trustee maintains a bona fide office in the state meeting the requirements of Subsection 57-1-21(1)(b), the address of a bona fide office of the trustee meeting the requirements of Subsection 57-1-21(1)(b);
- (iv) the hours during which the trustee can be contacted regarding the notice of default and notice of sale, which hours shall include the period during regular business hours in a regular business day; and

- (v) a telephone number that the person may use to contact the trustee during the hours described in Subsection (3)(b)(iv).

(4) If no address of the trustor is set forth in the trust deed and if no request for notice by the trustor has been recorded as provided in this section, no later than 15 days after the filing for record of the notice of default, a copy of the notice of default shall be:

- (a) mailed to the address of the property described in the notice of default; or
- (b) posted on the property.

(5) The following shall not affect the title to trust property or be considered notice to any person that any person requesting copies of notice of default or of notice of sale has or claims any right, title or interest in, or lien or claim upon, the trust property:

- (a) a request for a copy of any notice filed for record under Subsection (1) or (3);
- (b) any statement or allegation in any request described in Subsection (5)(a); or
- (c) any record of a request described in Subsection (5)(a).

Amended by Chapter 209, 2002 General Session